

House File 467 - Introduced

HOUSE FILE 467

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A BILL FOR

1 An Act relating to cigarettes, tobacco products, alternative
2 nicotine products, and vapor products, including taxation of
3 such products.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 331.303, subsection 3, Code 2019, is
2 amended to read as follows:

3 3. Act upon applications for cigarette ~~tax~~, tobacco
4 product, alternative nicotine product, and vapor product
5 permits in accordance with chapter 453A.

6 Sec. 2. Section 331.653, subsection 11, Code 2019, is
7 amended to read as follows:

8 11. Carry out duties relating to the seizure and forfeiture
9 of cigarettes, tobacco products, alternative nicotine products,
10 and vapor products, vehicles, and other property used in
11 violation of cigarette, tobacco product, alternative nicotine
12 product, or vapor product tax laws as provided in section
13 453A.32.

14 Sec. 3. Section 331.756, subsection 20, Code 2019, is
15 amended to read as follows:

16 20. Assist, at the request of the director of revenue,
17 in the enforcement of ~~cigar and~~ cigarette, tobacco product,
18 alternative nicotine product, and vapor product tax laws as
19 provided in sections 453A.32 and 453A.49.

20 Sec. 4. Section 453A.6, subsection 1, Code 2019, is amended
21 to read as follows:

22 1. There is imposed, and shall be collected and paid to the
23 department, a tax on all cigarettes used or otherwise disposed
24 of in this state for any purpose equal to ~~six and eight-tenths~~
25 fourteen and three-tenths cents on each cigarette.

26 Sec. 5. Section 453A.6, subsection 8, paragraph a, Code
27 2019, is amended to read as follows:

28 a. Pay directly to the department, in lieu of the tax under
29 subsection 1, a tax equal to ~~three and six hundredths~~ four
30 and four-tenths cents on each cigarette dispensed from such
31 machine.

32 Sec. 6. Section 453A.15, subsection 4, Code 2019, is amended
33 to read as follows:

34 4. Every permit holder or other person shall, when requested
35 by the department, make additional reports as the department

1 deems necessary and proper and shall at the request of the
 2 department furnish full and complete information pertaining to
 3 any transaction of the permit holder or other person involving
 4 the purchase or sale or use of cigarettes, alternative nicotine
 5 products, or vapor products, or purchase of cigarette stamps.
 6 The director shall specifically prescribe the forms necessary
 7 and require each retailer to provide on the forms prescribed,
 8 full and complete information pertaining to any cigarettes,
 9 alternative nicotine products, or vapor products offered for
 10 sale or sold by the retailer, including the type and brand of
 11 the product.

12 Sec. 7. Section 453A.24, subsection 2, Code 2019, is amended
 13 to read as follows:

14 2. The director may require by rule that common carriers
 15 or the appropriate persons provide monthly reports to the
 16 department detailing all information the department deems
 17 necessary on shipments into and out of Iowa of cigarettes,
 18 and tobacco products, alternative nicotine products, or vapor
 19 products, as set forth in this [subchapter I](#) and subchapter II
 20 of this chapter. The director may require by rule that the
 21 reports be filed by electronic transmission.

22 Sec. 8. Section 453A.32, subsection 6, Code 2019, is amended
 23 to read as follows:

24 6. The provisions of [this section](#) applying to cigarettes
 25 shall also apply to tobacco products, alternative nicotine
 26 products, and vapor products taxed under subchapter II of this
 27 chapter.

28 Sec. 9. Section 453A.33, Code 2019, is amended to read as
 29 follows:

30 **453A.33 Seizure not to affect criminal prosecution.**

31 The seizure, forfeiture, and sale of cigarettes, tobacco
 32 products, alternative nicotine products, vapor products, and
 33 other property under the terms and conditions ~~hereinabove set~~
 34 ~~out~~ pursuant to section 453A.32, shall not constitute any
 35 defense to the person owning or having control or possession of

1 the property from criminal prosecution for any act or omission
2 made or offense committed under [this chapter](#) or from liability
3 to pay penalties provided by [this chapter](#).

4 Sec. 10. Section 453A.35, subsection 1, paragraph b, Code
5 2019, is amended to read as follows:

6 *b.* The revenues generated from the tax on cigarettes
7 pursuant to [section 453A.6, subsection 1](#), and from the tax on
8 tobacco products, alternative nicotine products, and vapor
9 products as specified in section 453A.43, subsections 1, 2, 3,
10 and 4, shall be credited to the health care trust fund created
11 in [section 453A.35A](#).

12 Sec. 11. Section 453A.35A, Code 2019, is amended to read as
13 follows:

14 **453A.35A Health care trust fund.**

15 1. A health care trust fund is created in the office of
16 the treasurer of state. The fund consists of the revenues
17 generated from the tax on cigarettes pursuant to section
18 453A.6, subsection 1, and from the tax on tobacco products,
19 alternative nicotine products, and vapor products as specified
20 in [section 453A.43, subsections 1, 2, 3, and 4](#), that are
21 credited to the health care trust fund, annually, pursuant to
22 section 453A.35. Moneys in the fund shall be separate from
23 the general fund of the state and shall not be considered
24 part of the general fund of the state. However, the fund
25 shall be considered a special account for the purposes of
26 section 8.53 relating to generally accepted accounting
27 principles. Moneys in the fund shall be used only as specified
28 in [this section](#) and shall be appropriated only for the uses
29 specified. Moneys in the fund are not subject to [section 8.33](#)
30 and shall not be transferred, used, obligated, appropriated,
31 or otherwise encumbered, except as provided in [this section](#).
32 Notwithstanding [section 12C.7, subsection 2](#), interest or
33 earnings on moneys deposited in the fund shall be credited to
34 the fund.

35 2. Moneys in the fund shall be used only for purposes

1 related to health care including mental health services,
 2 substance abuse treatment and prevention, and tobacco use
 3 prevention, cessation, and control. The first nine million
 4 dollars credited to the fund, annually, shall be used for the
 5 purposes of tobacco use prevention, cessation, and control in
 6 accordance with the centers for disease control and prevention
 7 of the United States department of health and human services'
 8 most recently published best practices for comprehensive
 9 tobacco control programs, and the remaining revenue credited,
 10 annually, to the fund shall be used first for mental health
 11 services followed by the other specified purposes of the fund.

12 Sec. 12. Section 453A.39, subsection 1, Code 2019, is
 13 amended to read as follows:

14 1. A manufacturer, distributor, wholesaler, retailer, or
 15 distributing agent, or an agent thereof of a manufacturer,
 16 distributor, wholesaler, retailer, or distributing agent, shall
 17 not give away cigarettes, ~~or~~ tobacco products, alternative
 18 nicotine products, or vapor products, at any time in connection
 19 with the manufacturer's, distributor's, wholesaler's,
 20 retailer's, or distributing agent's business or for promotion
 21 of the business or product, except as provided in [subsection 2](#).

22 Sec. 13. Section 453A.40, subsection 1, Code 2019, is
 23 amended to read as follows:

24 1. All persons required to obtain a permit or to be licensed
 25 under [section 453A.13](#) or [section 453A.44](#) having in their
 26 possession and held for resale on the effective date of an
 27 increase in the tax rate cigarettes, little cigars, ~~or~~ tobacco
 28 products, alternative nicotine products, or vapor products upon
 29 which the tax under [section 453A.6](#) or [453A.43](#) has been paid,
 30 unused cigarette tax stamps which have been paid for under
 31 section 453A.8, unused metered imprints which have been paid
 32 for under [section 453A.12](#), or tobacco products, alternative
 33 nicotine products, or vapor products for which the tax has
 34 not been paid under [section 453A.46](#) shall be subject to an
 35 inventory tax on the items as provided in [this section](#).

1 Sec. 14. Section 453A.42, Code 2019, is amended to read as
2 follows:

3 **453A.42 Definitions.**

4 When used in this subchapter, unless the context clearly
5 indicates otherwise, the following terms shall have the
6 meanings, respectively, ascribed to them in this section:

7 1. "*Business*" means any trade, occupation, activity,
8 or enterprise engaged in for the purpose of selling or
9 distributing tobacco products, alternative nicotine products,
10 or vapor products in this state.

11 2. "*Consumer*" means any person who has title to or
12 possession of tobacco products, alternative nicotine products,
13 or vapor products in storage, for use or other consumption in
14 this state.

15 3. "*Delivery sale*" means any sale of an alternative nicotine
16 product or a vapor product to a purchaser in this state where
17 the purchaser submits the order for such sale by means of a
18 telephonic or other method of voice transmission, mail or any
19 other delivery service, or the internet or other online service
20 and the alternative nicotine product or vapor product is
21 delivered by use of mail or a delivery service. The sale of an
22 alternative nicotine product or vapor product shall constitute
23 a delivery sale regardless of whether the seller is located
24 in this state. "*Delivery sale*" does not include a sale to a
25 distributor or retailer of any alternative nicotine product or
26 vapor product not for personal consumption.

27 4. "*Director*" means the director of the department of
28 revenue.

29 5. "*Distributor*" means any ~~and each~~ of the following:

30 a. Any person engaged in the business of selling tobacco
31 products, alternative nicotine products, or vapor products
32 in this state who brings, or causes to be brought, into this
33 state from without the state any tobacco products, alternative
34 nicotine products, or vapor products for sale.

35 b. Any person who makes, manufactures, or fabricates tobacco

1 products, alternative nicotine products, or vapor products in
2 this state for sale in this state†.

3 c. Any person engaged in the business of selling tobacco
4 products, alternative nicotine products, or vapor products
5 without this state who ships or transports tobacco products,
6 alternative nicotine products, or vapor products to retailers
7 in this state, to be sold by those retailers.

8 6. "*Little cigar*" means any roll for smoking which meets all
9 of the following conditions:

10 a. Is made wholly or in part of tobacco, irrespective of
11 size or shape and irrespective of tobacco being flavored,
12 adulterated, or mixed with any other ingredient†.

13 b. Is not a cigarette as defined in section 453A.1,
14 subsection 4†; and.

15 c. Either weighs not more than three pounds per thousand,
16 irrespective of retail price, or weighs more than three pounds
17 per thousand and has a retail price of not more than two
18 and one-half cents per little cigar. For purposes of this
19 subsection, the retail price is the ordinary retail price in
20 this state, not including retail sales tax, use tax, or the tax
21 on little cigars imposed by [section 453A.43](#).

22 7. "*Manufacturer*" means a person who manufactures and sells
23 tobacco products, alternative nicotine products, or vapor
24 products.

25 8. "*Person*" means any individual, firm, association,
26 partnership, joint stock company, joint ~~adventure~~ venture,
27 corporation, trustee, agency, or receiver, or any legal
28 representative of any ~~of the foregoing~~ individual, firm,
29 association, partnership, joint stock company, joint venture,
30 corporation, trustee, agency, or receiver.

31 9. "*Place of business*" means any place where tobacco
32 products alternative nicotine products, or vapor products are
33 sold or where tobacco products, alternative nicotine products,
34 or vapor products are manufactured, stored, or kept for the
35 purpose of sale or consumption, including any vessel, vehicle,

1 airplane, train, or vending machine; or for a business within
2 or without the state that conducts delivery sales, any place
3 where alternative nicotine products or vapor products are sold
4 or where alternative nicotine products or vapor products are
5 kept for the purpose of sale, including delivery sales.

6 10. "*Retail outlet*" means each place of business from which
7 tobacco products, alternative nicotine products, or vapor
8 products are sold to consumers.

9 11. "*Retailer*" means any person engaged in the business
10 of selling tobacco, tobacco products, alternative nicotine
11 products, or vapor products to ultimate consumers.

12 12. "*Sale*" means any transfer, exchange, or barter, in any
13 manner or by any means whatsoever, for a consideration, and
14 includes and means all sales made by any person. It includes
15 a gift by a person engaged in the business of selling tobacco
16 products, alternative nicotine products, or vapor products
17 for advertising, as a means of evading the provisions of this
18 subchapter, or for any other purposes ~~whatsoever~~.

19 13. "*Snuff*" means any finely cut, ground, or powdered
20 tobacco that is not intended to be smoked.

21 14. "*Storage*" means any keeping or retention of tobacco
22 products, alternative nicotine products, or vapor products for
23 use or consumption in this state.

24 15. "*Subjobber*" means any person, other than a manufacturer
25 or distributor, who buys tobacco products, alternative nicotine
26 products, or vapor products from a distributor and sells them
27 to persons other than the ultimate consumers.

28 16. "*Tobacco products*" means cigars; little cigars as
29 defined herein; cheroots; stogies; periques; granulated, plug
30 cut, crimp cut, ready rubbed, and other smoking tobacco;
31 snuff; cavendish; plug and twist tobacco; fine-cut and other
32 chewing tobaccos; shorts; refuse scraps, clippings, cuttings
33 and sweepings of tobacco, and other kinds and forms of tobacco,
34 prepared in such manner as to be suitable for chewing or
35 smoking in a pipe or otherwise, or both for chewing and

1 smoking; but shall not include cigarettes as defined in section
2 453A.1, subsection 4.

3 17. "Use" means the exercise of any right or power
4 incidental to the ownership of tobacco products, alternative
5 nicotine products, or vapor products.

6 18. "Wholesale sales price" means the established price
7 for which a manufacturer sells a tobacco product, alternative
8 nicotine product, or vapor product to a distributor, exclusive
9 of any discount or other reduction.

10 Sec. 15. Section 453A.43, Code 2019, is amended to read as
11 follows:

12 **453A.43 Tax on tobacco products, alternative nicotine**
13 **products, and vapor products.**

14 1. a. A tax is imposed upon all tobacco products,
15 alternative nicotine products, and vapor products in this
16 state and upon any person engaged in business as a distributor
17 of tobacco products, at the rate of ~~twenty-two~~ sixty-seven
18 percent of the wholesale sales price of the tobacco products,
19 ~~except little cigars and snuff as defined in section~~
20 ~~453A.42, alternative nicotine products, or vapor products.~~
21 Notwithstanding the rate of tax imposed under this paragraph
22 "a" on tobacco products, little cigars shall be subject to the
23 tax as specified pursuant to paragraph "b", and snuff shall be
24 subject to the tax as specified pursuant to paragraph "c".

25 ~~b. In addition to the tax imposed under paragraph "a", a~~
26 ~~tax is imposed upon all tobacco products in this state and upon~~
27 ~~any person engaged in business as a distributor of tobacco~~
28 ~~products, at the rate of twenty-eight percent of the wholesale~~
29 ~~sales price of the tobacco products, except little cigars and~~
30 ~~snuff as defined in section 453A.42.~~

31 ~~c. Notwithstanding the rate of tax imposed pursuant to~~
32 ~~paragraphs "a" and "b", if the tobacco product is a cigar, the~~
33 ~~total amount of the tax imposed pursuant to paragraphs "a" and~~
34 ~~"b" combined shall not exceed fifty cents per cigar.~~

35 ~~d. b.~~ Little cigars shall be subject to the same rate of

1 tax imposed upon cigarettes in [section 453A.6](#), payable at the
 2 time and in the manner provided in [section 453A.6](#); and stamps
 3 shall be affixed as provided in [subchapter I of this chapter](#).

4 c. Snuff shall be subject to the tax as provided in
 5 subsections 3 and 4.

6 ~~e.~~ d. The taxes on tobacco products, ~~excluding little~~
 7 ~~cigars and snuff~~ alternative nicotine products, and vapor
 8 products, as specified pursuant to paragraph "a", shall be
 9 imposed at the time the distributor does any of the following:

10 (1) Brings, or causes to be brought, into this state from
 11 outside the state tobacco products, alternative nicotine
 12 products, or vapor products for sale.

13 (2) Makes, manufactures, or fabricates tobacco products,
 14 alternative nicotine products, or vapor products in this state
 15 for sale in this state.

16 (3) Ships or transports tobacco products, alternative
 17 nicotine products, or vapor products to retailers in this
 18 state, to be sold by those retailers.

19 2. a. A tax is imposed upon the use or storage by consumers
 20 of tobacco products, alternative nicotine products, and vapor
 21 products in this state, and upon the consumers, at the rate
 22 of ~~twenty-two~~ sixty-seven percent of the cost of the tobacco
 23 products, alternative nicotine products, or vapor products.

24 ~~b.~~ In addition to the tax imposed in paragraph "a", a tax
 25 is imposed upon the use or storage by consumers of tobacco
 26 products in this state, and upon the consumers, at a rate of
 27 ~~twenty-eight~~ percent of the cost of the tobacco products.

28 ~~c.~~ Notwithstanding the rate of tax imposed pursuant to
 29 paragraphs "a" and "b", if the tobacco product is a cigar, the
 30 total amount of the tax imposed pursuant to paragraphs "a" and
 31 "b" combined shall not exceed fifty cents per cigar.

32 ~~d.~~ b. The taxes imposed by [this subsection](#) shall not apply
 33 if the taxes imposed by [subsection 1](#) on the tobacco products,
 34 alternative nicotine products, or vapor products have been
 35 paid.

1 ~~e.~~ c. The taxes imposed under this subsection shall not
2 apply to the use or storage of tobacco products in quantities
3 of:

4 (1) Less than twenty-five cigars.

5 (2) Less than one pound smoking or chewing tobacco or other
6 tobacco products not specifically mentioned herein in this
7 chapter, in the possession of any one consumer.

8 3. A tax is imposed upon all snuff in this state and upon
9 any person engaged in business as a distributor of snuff at
10 the rate of ~~one dollar and nineteen cents per ounce, with a~~
11 ~~proportionate tax at the same rate on all fractional parts of~~
12 ~~an ounce of snuff~~ sixty-seven percent of the wholesale sales
13 price or an amount equal to the tax on cigarettes pursuant to
14 section 453A.6 for each one and two-tenths ounces of snuff,
15 whichever is higher. The tax shall be computed based on the
16 net weight listed by the manufacturer. The tax on snuff
17 shall be imposed at the time the distributor does any of the
18 following:

19 a. Brings or causes to be brought into this state from
20 outside the state, snuff for sale.

21 b. Makes, manufactures, or fabricates snuff in this state
22 for sale in this state.

23 c. Ships or transports snuff to retailers in this state, to
24 be sold by those retailers.

25 4. a. A tax is imposed upon the use or storage by consumers
26 of snuff in this state, and upon the consumers, at the rate of
27 ~~one dollar and nineteen cents per ounce with a proportionate~~
28 ~~tax at the same rate on all fractional parts of an ounce of~~
29 ~~snuff~~ sixty-seven percent of the wholesale sales price or an
30 amount equal to the tax on cigarettes pursuant to section
31 453A.6 for each one and two-tenths ounces of snuff, whichever
32 is higher. The tax shall be computed based on the net weight
33 as listed by the manufacturer.

34 b. The tax imposed by this subsection shall not apply if the
35 tax imposed by subsection 3 on snuff has been paid.

1 c. The tax shall not apply to the use or storage of snuff in
2 quantities of less than ten ounces.

3 5. Any tobacco product, alternative nicotine product, or
4 vapor product with respect to which a tax has once been imposed
5 under this subchapter shall not again be subject to tax under
6 this subchapter, except as provided in section 453A.40.

7 6. The tax imposed by this section shall not apply with
8 respect to any tobacco product, alternative nicotine product,
9 or vapor product which under the Constitution and laws of the
10 United States may not be made the subject of taxation by this
11 state.

12 7. The tax imposed by this section shall be in addition to
13 all other occupation or privilege taxes or license fees ~~now or~~
14 ~~hereafter~~ imposed by any city or county.

15 8. All excise taxes collected under this chapter by a
16 distributor or any individual are deemed to be held in trust
17 for the state of Iowa.

18 Sec. 16. Section 453A.44, subsections 1, 3, and 10, Code
19 2019, are amended to read as follows:

20 1. ~~No~~ A person shall not engage in the business of a
21 distributor or subjobber of tobacco products, alternative
22 nicotine products, or vapor products at any place of business
23 without first having received a license from the director to
24 engage in that business at that place of business.

25 3. A person without this state who ships or transports
26 tobacco products, alternative nicotine products, or vapor
27 products to retailers in this state, to be sold by those
28 retailers, may make application for a license as a distributor,
29 be granted a license by the director, and thereafter be subject
30 to all the provisions of this subchapter and entitled to act as
31 a licensed distributor.

32 10. The director may revoke, cancel, or suspend the
33 license or licenses of any distributor or subjobber for
34 violation of any of the provisions of this subchapter, or
35 any other act applicable to the sale of tobacco products,

1 alternative nicotine products, or vapor products, or any rule
2 or regulations promulgated by the director in furtherance of
3 this subchapter. No license shall be revoked, canceled, or
4 suspended except after notice and a hearing by the director as
5 provided in [section 453A.48](#).

6 Sec. 17. Section 453A.45, Code 2019, is amended to read as
7 follows:

8 **453A.45 Licensees, duties.**

9 1. a. Every distributor shall keep at each licensed
10 place of business complete and accurate records for that
11 place of business, including itemized invoices, of tobacco
12 products, alternative nicotine products, or vapor products
13 held, purchased, manufactured, brought in or caused to be
14 brought in from without the state, or shipped or transported to
15 retailers in this state, and of all sales of tobacco products,
16 alternative nicotine products, and vapor products made, except
17 sales to the ultimate consumer.

18 b. When a licensed distributor sells tobacco products,
19 alternative nicotine products, or vapor products exclusively to
20 the ultimate consumer at the address given in the license, an
21 invoice of those sales is not required, but itemized invoices
22 shall be made of all tobacco products, alternative nicotine
23 products, and vapor products transferred to other retail
24 outlets owned or controlled by that licensed distributor. All
25 books, records, and other papers and documents required by
26 this subsection to be kept shall be preserved for a period
27 of at least three years after the date of the documents or
28 the date of the entries appearing in the records, unless the
29 director, in writing, authorized their destruction or disposal
30 at an earlier date. At any time during usual business hours,
31 the director, or the director's duly authorized agents or
32 employees, may enter any place of business of a distributor,
33 without a search warrant, and inspect the premises, the records
34 required to be kept under [this subsection](#), and the tobacco
35 products, alternative nicotine products, and vapor products

1 contained ~~therein~~ at the place of business, to determine if
2 all the provisions of this subchapter are being fully complied
3 with. If the director, or any such agent or employee, is
4 denied free access or is hindered or interfered with in
5 making the examination, the license of the distributor at that
6 premises is subject to revocation by the director.

7 2. Every person who sells tobacco products, alternative
8 nicotine products, or vapor products to persons other than the
9 ultimate consumer shall render with each sale itemized invoices
10 showing the seller's name and address, the purchaser's name and
11 address, the date of sale, and all prices and discounts. The
12 person shall preserve legible copies of all these invoices for
13 three years from the date of sale.

14 3. Every retailer and subjobber shall procure itemized
15 invoices of all tobacco products, alternative nicotine
16 products, and vapor products purchased. The invoices shall
17 show the name and address of the seller and the date of
18 purchase. The retailer and subjobber shall preserve a legible
19 copy of each invoice for three years from the date of purchase.
20 Invoices shall be available for inspection by the director or
21 the director's authorized agents or employees at the retailer's
22 or subjobber's place of business.

23 4. Records of all deliveries or shipments of tobacco
24 products, alternative nicotine products, or vapor products from
25 any public warehouse of first destination in this state which
26 is subject to the provisions of and licensed under chapter
27 554 shall be kept by the warehouse and be available to the
28 director for inspection. They shall show the name and address
29 of the consignee, the date, the quantity of tobacco products,
30 alternative nicotine products, or vapor products delivered,
31 and such other information as the commissioner may require.
32 These records shall be preserved for three years from the date
33 of delivery of the tobacco products, alternative nicotine
34 products, or vapor products.

35 5. a. The transportation of tobacco products, alternative

1 nicotine products, or vapor products into this state by means
2 other than common carrier must be reported to the director
3 within thirty days with the following exceptions:

4 (1) The transportation of not more than fifty cigars, not
5 more than ten ounces of snuff or snuff powder, or not more
6 than one pound of smoking or chewing tobacco or other tobacco
7 products not specifically ~~mentioned herein~~, specified under
8 this subparagraph.

9 (2) Transportation by a person with a place of business
10 outside the state, who is licensed as a distributor under
11 section 453A.44, or tobacco products, alternative nicotine
12 products, or vapor products sold by such person to a retailer
13 in this state.

14 b. The report shall be made on forms provided by the
15 director. The director may require by rule that the report be
16 filed by electronic transmission.

17 c. Common carriers transporting tobacco products,
18 alternative nicotine products, or vapor products into this
19 state shall file with the director reports of all such
20 shipments other than those which are delivered to public
21 warehouses of first destination in this state which are
22 licensed under the provisions of [chapter 554](#). Such reports
23 shall be filed on or before the tenth day of each month and
24 shall show with respect to deliveries made in the preceding
25 month; the date, point of origin, point of delivery, name
26 of consignee, description and quantity of tobacco products,
27 alternative nicotine products, or vapor products delivered, and
28 such information as the director may otherwise require.

29 d. Any person who fails or refuses to transmit to the
30 director the required reports or whoever refuses to permit the
31 examination of the records by the director shall be guilty of
32 a serious misdemeanor.

33 Sec. 18. Section 453A.46, subsection 1, paragraph a, Code
34 2019, is amended to read as follows:

35 a. On or before the twentieth day of each calendar month

1 every distributor with a place of business in this state shall
2 file a return with the director showing for the preceding
3 calendar month the quantity and wholesale sales price of
4 each tobacco product, alternative nicotine product, or vapor
5 product brought, or caused to be brought, into this state for
6 sale; made, manufactured, or fabricated in this state for sale
7 in this state; and any other information the director may
8 require. Every licensed distributor outside this state shall
9 in like manner file a return with the director showing for
10 the preceding calendar month the quantity and wholesale sales
11 price of each tobacco product, alternative nicotine product,
12 or vapor product shipped or transported to retailers in this
13 state to be sold by those retailers and any other information
14 the director may require. Returns shall be made upon forms
15 furnished or made available in electronic form and prescribed
16 by the director and shall contain other information as the
17 director may require. Each return shall be accompanied by a
18 remittance for the full tax liability shown on the return, less
19 a discount as fixed by the director not to exceed five percent
20 of the tax. Within three years after the return is filed or
21 within three years after the return became due, whichever is
22 later, the department shall examine it, determine the correct
23 amount of tax, and assess the tax against the taxpayer for any
24 deficiency. The period for examination and determination of
25 the correct amount of tax is unlimited in the case of a false or
26 fraudulent return made with the intent to evade tax, or in the
27 case of a failure to file a return.

28 Sec. 19. Section 453A.46, subsection 6, Code 2019, is
29 amended to read as follows:

30 6. On or before the twentieth day of each calendar month,
31 every consumer who, during the preceding calendar month,
32 has acquired title to or possession of tobacco products,
33 alternative nicotine products, or vapor products for use or
34 storage in this state, upon which tobacco products, alternative
35 nicotine products, or vapor products the tax imposed by

1 section 453A.43 has not been paid, shall file a return with the
2 director showing the quantity of tobacco products, alternative
3 nicotine products, or vapor products so acquired. The return
4 shall be made upon a form furnished and prescribed by the
5 director, and shall contain other information as the director
6 may require. The return shall be accompanied by a remittance
7 for the full unpaid tax liability shown by it. Within three
8 years after the return is filed or within three years after the
9 return became due, whichever is later, the department shall
10 examine it, determine the correct amount of tax, and assess the
11 tax against the taxpayer for any deficiency. The period for
12 examination and determination of the correct amount of tax is
13 unlimited in the case of a false or fraudulent return made with
14 the intent to evade tax, or in the case of a failure to file a
15 return.

16 Sec. 20. Section 453A.47, Code 2019, is amended to read as
17 follows:

18 **453A.47 Refunds, credits.**

19 Where tobacco products, alternative nicotine products, or
20 vapor products upon which the tax imposed by **this subchapter**
21 has been reported and paid are shipped or transported by the
22 distributor to consumers to be consumed without the state
23 or to retailers or subjobbers without the state to be sold
24 by those retailers or subjobbers without the state or are
25 returned to the manufacturer by the distributor or destroyed
26 by the distributor, refund of such tax or credit may be made
27 to the distributor in accordance with regulations prescribed
28 by the director. Any overpayment of the tax imposed under
29 section 453A.43 may be made to the taxpayer in accordance with
30 regulations prescribed by the director. The director shall
31 cause any such refund of tax to be paid out of the general fund
32 of the state, and so much of said fund as may be necessary is
33 hereby appropriated for that purpose.

34 Sec. 21. Section 453A.47A, subsection 10, paragraph b, Code
35 2019, is amended to read as follows:

1 *b.* Every retailer shall, when requested by the department,
 2 make additional reports as the department deems necessary and
 3 proper and shall at the request of the department furnish
 4 full and complete information pertaining to any transaction
 5 of the retailer involving the purchase or sale or use of
 6 tobacco, tobacco products, alternative nicotine products, or
 7 vapor products. The director shall specifically prescribe the
 8 forms necessary and require each retailer to provide on the
 9 forms prescribed full and complete information pertaining to
 10 any tobacco, tobacco products, alternative nicotine products,
 11 or vapor products offered for sale or sold by the retailer,
 12 including the type and brand of the product.

13 Sec. 22. Section 453A.48, subsection 3, Code 2019, is
 14 amended to read as follows:

15 3. The director may exchange information with the officers
 16 and agencies of other states administering laws relating to the
 17 taxation of tobacco products, alternative nicotine products,
 18 and vapor products.

19 Sec. 23. Section 453A.51, Code 2019, is amended to read as
 20 follows:

21 **453A.51 Assessment of cost of audit.**

22 The department may employ auditors or other persons to
 23 audit and examine the books and records of a permit holder
 24 or other person dealing in tobacco products, alternative
 25 nicotine products, or vapor products to ascertain whether
 26 the permit holder or other person has paid the amount of the
 27 taxes required to be paid by the permit holder or other person
 28 under the provisions of **this chapter**. If the taxes have not
 29 been paid, as required, the department shall assess against
 30 the permit holder or other person, as additional penalty, the
 31 reasonable expenses and costs of the investigation and audit.

32 EXPLANATION

33 The inclusion of this explanation does not constitute agreement with
 34 the explanation's substance by the members of the general assembly.

35 This bill relates to cigarettes, tobacco products,

1 alternative nicotine products, and vapor products under Code
2 chapter 453A (cigarette and tobacco taxes and regulation
3 of alternative nicotine products and vapor products). The
4 bill increases the tax on cigarettes and tobacco products
5 and imposes a tax on alternative nicotine products and vapor
6 products such that the tax is equivalent on all products to a
7 tax of \$2.86 on a pack of cigarettes.

8 The bill increases the tax imposed on cigarettes from six and
9 eight-tenths cents to fourteen and three-tenths cents on each
10 cigarette, or from \$1.36 to \$2.86 per pack of 20 cigarettes.

11 The bill increases the tax on cigarettes assembled using
12 loose tobacco products that are inserted into a vending machine
13 from which assembled cigarettes are dispensed from three and
14 six-hundredths cents to four and four-tenths cents, which
15 is equivalent, based on the weight of tobacco used for each
16 cigarette, to the tax on packaged cigarettes.

17 The bill increases the tax on tobacco products from 50
18 percent of the wholesale sales price to 67 percent of the
19 wholesale sales price, and imposes this same tax on alternative
20 nicotine products and vapor products. The bill eliminates the
21 cap on the tax for cigars which was 50 cents per cigar.

22 The bill makes conforming provisions throughout the Code to
23 make administration and collection of the tax on alternative
24 nicotine products and vapor products the same as for tobacco
25 products. The bill provides that of the funds consisting of
26 the revenues generated from the tax on cigarettes, tobacco
27 products, alternative tobacco products, and vapor products,
28 the first \$9 million credited to the health care trust fund,
29 annually, is to be used for the purposes of tobacco use
30 prevention, cessation, and control in accordance with the
31 centers for disease control and prevention of the United
32 States department of health and human services' most recently
33 published best practices for comprehensive tobacco control
34 programs, and the remaining revenue credited, annually, to the
35 fund shall be used first for mental health services followed by

1 other specified purposes of the fund.

2 The bill provides that under the director of revenue's
3 authorization to require permit holders to make additional
4 reports, the director shall specifically prescribe the forms
5 necessary and require each retailer to provide on the forms
6 prescribed, full and complete information pertaining to any
7 cigarettes, alternative nicotine products, or vapor products
8 offered for sale or sold by the retailer, including the type
9 and brand of the product.